

**MINUTES OF THE REGULAR MEETING OF THE
BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS**

FOR OCTOBER 24, 2007

The **Regular Meeting** of the Council of Commissioners was called to order Wednesday, **October 24, 2007** in the Council Chambers, Third Floor, Room 312, Courthouse Building, 155 West Granite Street, Butte, Montana by Council Chairman Charlie O'Leary who noted that Chief Executive Paul Babb was on a hunting trip.

ROLL CALL

Nine present; one presiding; two absent
Commissioners Fay and Mulcahy were excused.

PRAYER

Commissioner Granger led the Council in prayer.

APPROVAL OF THE MINUTES OF THE OCTOBER 10, 2007 REGULAR MEETING

It was moved by Commissioner Lee, seconded by Commissioner Coleman, and carried with a unanimous verbal vote to approve the Minutes of the October 10, 2007 Regular Meeting.

ITEMS NOT ON THE AGENDA – SUSPENSION OF THE RULES

Commissioner Lee noted a finding of an existing emergency to permit suspension of the rules to allow placement on the agenda and approval of council Communication No. 07-695. **It was moved by Commissioner Lee, seconded by Commissioner Coleman to suspend the rules as requested; the motion was approved on a roll call vote with nine yeas and no nays.**

PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA

None

CHIEF EXECUTIVE'S REPORT

In the absence of Chief Executive Babb, Chairman O'Leary noted that representatives from the Russ Reid Company of Washington, D.C. were in Butte last week, receiving orientation to the needs of the community.

SECTION I - CONSENT AGENDA

- A.**
 - 1. COMMITTEE OF THE WHOLE MEETING REPORT**
 - 2. FINANCE AND BUDGET COMMITTEE MEETING REPORT**
 - 3. JUDICIARY COMMITTEE MEETING REPORT**
 - 4. PUBLIC WORKS COMMITTEE MEETING REPORT**

Before entertaining a motion for approval of the Consent Agenda, Commissioner O'Leary asked for segregations or friendly amendments.

Commissioner Lee noted one friendly amendment to Section I, B – Communications, No. 7. 07-677, changing the recommendation from “note and place on file” to “concur and place on file”. Commissioner Lee requested a second amendment in Section II, COMMUNICATIONS TO BE READ AND ACTED UPON, Communication 1. 07-674 – Changing the recommendation from “concur and place on file” to “no recommendation”.

Commissioner Lee then moved for approval of the Consent Agenda, Section A, items 1-4 and Section B, items 1 through 24 with the noted friendly amendments. Commissioner Coleman seconded the motion and it passed with a unanimous verbal vote.

Council Chairman O'Leary then addressed the emergency approved under Suspension of the Rules and called on County Attorney McCarthy.

County Attorney McCarthy reviewed his letter to Council, along with the letter received this date from MT. Tech's John Nugent requesting the donation of the salvage bleachers outside the Civic Center to the Montana Youth ChalleNGe in Dillon. Mr. McCarthy noted that according to a letter received from Rufus Whitaker, the MT Tech HPER Supervisor and Campus Recreation Director, the bleachers have no economic value, are of indeterminate age due to exposure to the elements and have no value to either the Civic Center or Butte. According to Whitaker, the bleachers would require substantial renovation to make them serviceable.

It was moved by Commissioner Lee, seconded by Commissioner Coleman to approve the donation as requested; the motion was approved on a roll call vote with nine yeas and no nays.

Mr. McCarthy confirmed that any liability associated with the bleachers will transfer with the ownership to the Montana Youth ChalleNGe Program in Dillon.

SECTION II – COMMUNICATIONS TO BE READ AND ACTED UPON

1. 07-674 Paul Babb, Chief Executive, regarding appointment of Mr. Rob Macioroski as Director of the Land Records Department.

A motion was made by Commissioner Lee, seconded by Commissioner Coleman to concur with the appointment and place Communication 07-674 on file.

Commissioner Sheehy noted having been contacted by Clerk and Recorder Mary McMahon who is concerned about her budgets being targeted as funding for this new Department since there is apparently no approved budget for this new Department.

Budget Director Amerman stated that there is a budget, but not as a Department; only as a Division of the Clerk and Recorder's Office, which he felt is fully funded with some "shared costs".

Commissioner Sheehy asked Amerman if money will be taken out of the Clerk and Recorder's budgets to fund the Department. Amerman's response was "no, except for small areas, such as postage".

Commissioner Moodry questioned creating a separate department with the approved budget and that one employee is shared 50/50. Amerman indicated that the shared employee payroll will continue to come out of the Clerk & Recorder's budget for the current fiscal year.

Commissioner Frasz questioned whether there will be a separate budget for the Lane Records Department next year for 2008-2009; Amerman concurred.

Commissioner Coleman asked if it could be made a separate department in BARS now, but Amerman indicated that would be difficult but will be a stand-alone department next year.

Commissioner Frasz asked Clerk & Recorder McMahon if she had any comments or concerns. McMahon responded that she had contacted Council members today because she did not want her (3) budgets cannibalized for the creation and funding of a new department. She noted that the new department is in dire need of new plat map and survey cabinets that are currently busting at their seams, but her budgets do not have funded intended for such purchase.

Commissioner O'Leary noted that this is not a budgetary discussion; the point is the appointment of Macioroski and if a budget discussion is required, someone should send a letter to Council.

Commissioner Coleman asked Amerman if it would be a problem breaking the department out this year; Amerman said it would, but not for the following year.

Commissioner Sorich then called for the question on the earlier motion by Lee and seconded by Coleman. The motion passed on a unanimous verbal vote.

SECTION III – ORDINANCE AND RESOLUTIONS – REFERRED TO JUDICIARY

**1. COUNCIL BILL NO. 07-19
ORDINANCE NO. 07-19**

AN ORDINANCE CREATING A NEW CHAPTER IN THE BUTTE-SILVER BOW MUNICIPAL CODE TO BE NUMBERED CHAPTER 2.53 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) AND ENTITLED “BUTTE-SILVER BOW CEMETERY”; PROVIDING FOR THE CITY AND COUNTY OF BUTTE-SILVER BOW TO OPERATE AND MANAGE THE SUNSET SILVER BOW CEMETERY PURSUANT TO SECTION 7-35-2201, MCA 2005; PROVIDING FOR THE SUNSET SILVER BOW CEMETERY TO BE RENAMED THE BUTTE-SILVER BOW CEMETERY; PROVIDING FOR THE BUTTE-SILVER BOW CEMETERY TO BE OPERATED UNDER THE PUBLIC WORKS DEPARTMENT AND SETTING FORTH THE DUTIES AND FUNCTIONS FOR THE OPERATION OF THE CEMETERY AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

**2. COUNCIL BILL NO. 07-20
ORDINANCE NO. 07-20**

AN ORDINANCE AMENDING CHAPTER 2.08 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “LOCAL GOVERNMENT EMPLOYEES”; AMENDING SECTION 2.08.70; INCREASING THE FEE FOR MEALS FOR TRAVEL FOR EMPLOYEES OF BUTTE-SILVER BOW AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

3. COUNCIL RESOLUTION NO. 07-94

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A CERTAIN PARCEL OF VACANT PROPERTY LOCATED IN THE 1600 BLOCK OF HANCOCK STREET, LEGALLY DESCRIBED AS LOTS 10, 11, 12, 13, AND 14 IN BLOCK 15 OF THE NORTHERN PACIFIC ADDITION, BUTTE-SILVER BOW COUNTY, MONTANA FOR THE PURPOSE OF COMMUNITY DEVELOPMENT IN ACCORDANCE WITH THE PROCEDURES OF BUTTE-SILVER BOW MUNICIPAL CODE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

4. COUNCIL RESOLUTION NO. 07-95

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A PARCEL OF REAL PROPERTY UNOFFICIALLY DESCRIBED AS LOTS 4 AND 5 IN BLOCK 6 OF THE GAGNON ADDITION (AN UNFILED PLAT) OWNED BY THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA TO THE ADJOINING OWNER PURSUANT TO POLICIES ADOPTED BY THE COUNCIL OF COMMISSIONERS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

SECTION IV ORDINANCES – SECOND READING

**1. COUNCIL BILL NO. 07-16
ORDINANCE NO. 07-16**

AN ORDINANCE AMENDING CHAPTER 9.16 OF THE BUTTE-SILVER BOW MUNICIPAL CODE ENTITLED “PARK RESTRICTIONS”; AMENDING SECTIONS 9.16.010, 9.16.020, 9.16.030, 9.16.040, 9.16.050, 9.16.060 AND 9.16.070 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC); REGULATING THE PUBLIC USE AND HOURS OF USE OF THE EXTERIOR OF THE AREA AROUND THE BUS TRANSFER STATION AND THE FRONT LANDSCAPED AREA OF THE CIVIC CENTER AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner Lee, seconded by Commissioner Coleman and carried by a roll call vote of 9 yeas and 0 nays to place Council Bill No. 07-16, Ordinance No. 07-16 on second reading and passed having been deemed fully read at length.

**2. COUNCIL BILL NO. 07-18
ORDINANCE NO. 07-18**

AN ORDINANCE AMENDING SECTION 2 OF BUTTE-SILVER BOW ORDINANCE NO. 134 AND SECTION 2.04.010 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC); ADJUSTING THE ANNUAL SALARIES OF THE CHIEF EXECUTIVE, COUNTY ATTORNEY, SHERIFF, CLERK AND RECORDER, TREASURER, ASSESSOR, CITY JUDGE, JUSTICE OF THE PEACE, AUDITOR, SUPERINTENDENT OF SCHOOLS, CLERK OF THE DISTRICT COURT, CORONER AND MEMBERS OF THE COUNCIL OF COMMISSIONERS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner Lee, seconded by Commissioner Coleman and carried by a roll call vote of 9 yeas and 0 nays to place Council Bill No. 07-18, Ordinance No. 07-18 on second reading and passed having been deemed fully read at length.

SECTION V

ORDINANCES AND RESOLUTIONS FINAL READING

1. COUNCIL BILL NO. 07-15 ORDINANCE NO. 07-15

AN ORDINANCE AMENDING SECTION 4 OF ORDINANCE NO. 204 AND SECTION 10.40.050 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED "SPEED LIMIT", ESTABLISHING A 15 MPH SPEED LIMIT ON WOOLMAN STREET BEGINNING AT ITS INTERSECTION WITH WYOMING STREET ON THE EAST TO JACKSON STREET ON THE WEST AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner Lee, seconded by Commissioner Coleman and carried by a roll call vote of 9 yeas and 0 nays to place Council Bill No. 07-18, Ordinance No. 07-18 on final reading and passed having been deemed fully read at length.

2 COUNCIL RESOLUTION NO. 07-90

A RESOLUTION VACATING, CLOSING, DISCONTINUING AND ABANDONING A PORTION OF MEADOWLARK LANE IN THE SOUTHEAST ONE-QUARTER (SEA/4) OF SECTION 32, TOWNSHIP 3 NORTH, RANGE 7 WEST, P.M.M. WITHIN THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PRESCRIBING THE EFFECTIVE DATE OF THIS RESOLUTION AND FINDING THE NECESSARY FACTS HEREIN.

It was moved by Commissioner Lee, seconded by Commissioner Coleman and carried by a roll call vote of 9 yeas and 0 nays to place Council Resolution No. 07-90 on final reading and passed having been deemed fully read at length.

3. COUNCIL RESOLUTION NO. 07-91

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE FINAL PLAT OF THE CARRUTHERS MINOR SUBDIVISION OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner Lee, seconded by Commissioner Coleman and carried by a roll call vote of 9 yeas and 0 nays to place Council Resolution No. 07-91 on final reading and passed having been deemed fully read at length.

4. COUNCIL RESOLUTION NO. 07-93

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A PARCEL OF REAL PROPERTY DESCRIBED AS LOT 21 IN BLOCK 20 OF THE NORTHERN PACIFIC ADDITION OWNED BY THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA TO THE ADJOINING OWNER PURSUANT TO POLICIES ADOPTED BY THE COUNCIL OF COMMISSIONERS AND FINDING THE NECESSARY FACTS HEREIN.

It was moved by Commissioner Lee, seconded by Commissioner Coleman and carried by a roll call vote of 9 yeas and 0 nays to place Council Resolution No. 07-93 on final reading and passed having been deemed fully read at length.

ADJOURN

There being no further business to come before the Council, it was moved by Commissioner Lee, seconded by Commissioner Coleman and carried by a unanimous verbal vote to Rose to the Call of the Chair.

The meeting adjourned at 8:05 PM.

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER